

REMARKS

Claim Rejections

Claim 2 is rejected under 35 U.S.C. § 112, second paragraph. Claims 1 and 2 are rejected under 35 U.S.C. § 102(b) as being anticipated by Boehm et al. Claims 1 and 2 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Harrell in view of Boehm et al.

Drawings

Applicant proposes to amend Figure 5, as illustrated in red on the attached photocopy. In Figure 5 it is proposed to add the label --PRIOR ART--. No "new matter" has been added to the original disclosure by the proposed amendment to this figure. Approval of the proposed drawing change is respectfully requested.

New Claims

By this Amendment, Applicant has canceled claims 1-2 and has added new claims 3-7 to this application. It is believed that the new claims specifically set forth each element of Applicant's invention in full compliance with 35 U.S.C. § 112, and define subject matter that is patentably distinguishable over the cited prior art, taken individually or in combination.

The new claims are directed toward a safety plug comprising: a heat-resistant and hardness object (20); two pins (21), each of the two pins having a first end, a second end, and a middle portion, the heat-resistant and hardness object encasing the middle portion of each of the two pins, the first end and the second end protruding outwardly from opposing sides of the heat-resistant and hardness object; an electrical cord (22) connected to each second end and spaced apart from the heat-resistant and hardness object; and an outer body (23) covering an exterior surface of the heat-resistant and hardness object, the second end of each of the two pins, and a predetermined portion of the electrical cord, wherein the outer body includes a flexible tailing wing (24) spaced apart from the heat-resistant and hardness object.

Other embodiments of the present invention include: the heat-resistant and hardness object is made of Polybutylene Terephthalate; the heat-resistant and hardness object is made of a heat-resistant plastic material; the heat-resistant and hardness object is made of a ceramic material; and the outer body is a PVC material.

The primary reference to Boehm et al. teaches a thermal probe assembly having male terminals (14, 16), a pre-mold (42), insulating wires (18, 20) located in the pre-mold and connected to the male terminals, and an open ended socket (45).

Boehm et al. do not teach an electrical cord connected to each second end and spaced apart from the heat-resistant and hardness object; the outer body includes a flexible tailing wing spaced apart from the heat-resistant and hardness object; nor do Boehm et al. teach the heat-resistant and hardness object is made of a ceramic material.

It is axiomatic in U.S. patent law that, in order for a reference to anticipate a claimed structure, it must clearly disclose each and every feature of the claimed structure. Applicant submits that it is abundantly clear, as discussed above, that Boehm et al. do not disclose each and every feature of Applicant's new claims and, therefore, could not possibly anticipate these claims under 35 U.S.C. § 102. Absent a specific showing of these features, Boehm et al. cannot be said to anticipate any of Applicant's new claims under 35 U.S.C. § 102.

The second primary reference to Harrell teaches an electrical connector having an intermediate component (20), terminals (28A-28C), conductors (42A, 42C), and outer jacket (48). The conductors are connected to the terminal on and interior of the intermediate component.

Harrell does not teach the first end and the second end protruding outwardly from opposing sides of the heat-resistant and hardness object; an electrical cord connected to each second end and spaced apart from the heat-resistant and hardness object; an outer body covering an exterior surface of the heat-resistant and hardness object, the second end of each of the two pins, and a predetermined portion of the electrical cord; the outer body includes a flexible tailing wing spaced apart from the heat-resistant and hardness object; the heat-resistant and hardness object is made of Polybutylene Terephthalate; the heat-resistant and hardness

object is made of a heat-resistant plastic material; nor does Harrell teach the heat-resistant and hardness object is made of a ceramic material.

Even if the teachings of Boehm et al. and Harrell were combined, as suggested by the Examiner, the resultant combination does not suggest: an electrical cord connected to each second end and spaced apart from the heat-resistant and hardness object; the outer body includes a flexible tailing wing spaced apart from the heat-resistant and hardness object; nor does the combination suggest the heat-resistant and hardness object is made of a ceramic material.

It is a basic principle of U.S. patent law that it is improper to arbitrarily pick and choose prior art patents and combine selected portions of the selected patents on the basis of Applicant's disclosure to create a hypothetical combination which allegedly renders a claim obvious, unless there is some direction in the selected prior art patents to combine the selected teachings in a manner so as to negate the patentability of the claimed subject matter. This principle was enunciated over 40 years ago by the Court of Customs and Patent Appeals in In re Rothermel and Waddell, 125 USPQ 328 (CCPA 1960) wherein the court stated, at page 331:

The examiner and the board in rejecting the appealed claims did so by what appears to us to be a piecemeal reconstruction of the prior art patents in the light of appellants' disclosure. ... It is easy now to attribute to this prior art the knowledge which was first made available by appellants and then to assume that it would have been obvious to one having the ordinary skill in the art to make these suggested reconstructions. While such a reconstruction of the art may be an alluring way to rationalize a rejection of the claims, it is not the type of rejection which the statute authorizes.

The same conclusion was later reached by the Court of Appeals for the Federal Circuit in Orthopedic Equipment Company Inc. v. United States, 217 USPQ 193 (Fed.Cir. 1983). In that decision, the court stated, at page 199:

As has been previously explained, the available art shows each of the elements of the claims in suit. Armed with this information, would it then be non-obvious to this person of ordinary skill in the art to

coordinate these elements in the same manner as the claims in suit? The difficulty which attaches to all honest attempts to answer this question can be attributed to the strong temptation to rely on hindsight while undertaking this evaluation. It is wrong to use the patent in suit as a guide through the maze of prior art references, combining the right references in the right way so as to achieve the result of the claims in suit. Monday morning quarterbacking is quite improper when resolving the question of non-obviousness in a court of law.

In In re Geiger, 2 USPQ2d, 1276 (Fed.Cir. 1987) the court stated, at page 1278:

We agree with appellant that the PTO has failed to establish a *prima facie* case of obviousness. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination.

Applicant submits that there is not the slightest suggestion in either Boehm et al. or Harrell that their respective teachings may be combined as suggested by the Examiner. Case law is clear that, absent any such teaching or suggestion in the prior art, such a combination cannot be made under 35 U.S.C. § 103.

Neither Boehm et al. nor Harrell disclose, or suggest a modification of their specifically disclosed structures that would lead one having ordinary skill in the art to arrive at Applicant's claimed structure. Applicant hereby respectfully submits that no combination of the cited prior art renders obvious Applicant's new claims.

Summary

In view of the foregoing amendments and remarks, Applicant submits that this application is now in condition for allowance and such action is respectfully requested. Should any points remain in issue, which the Examiner feels could best be resolved by either a personal or a telephone interview, it is urged that Applicant's local attorney be contacted at the exchange listed below.

Respectfully submitted,

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